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1379

By: Joe Martuccio, Law Director

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REC'D 1856 3/28/16

ORDINANCE NO. 59/2016AN ORDINANCE AMENDING AND UPDATING CHAPTER 539 OF THE
CODIFIED ORDINANCES OF THE CITY OF CANTON

WHEREAS, many sections of the Parks and Playgrounds portion of the codified ordinances in Chapter 539 have not been amended or updated since they were enacted in 1964; and

WHEREAS, The Park Director and the Board of Park Commissioners have been working with the Law and Police Departments to modernize the chapter based upon the parks' experiences, research and public suggestions;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANTON, STATE OF OHIO, THAT:

Section 1. Part Five General Offenses Code and Chapter 539 of the Codified Ordinances of the city of Canton is repealed, amended and updated with regulations of new, enforceable ordinances for the health, safety and welfare of the public as follows:

CHAPTER 539 PARKS

GLOSSARY

539.01 - DEFINITIONS

539.02 - GENERAL PROVISIONS

539.03 - HOURS

539.04 - ALCOHOLIC BEVERAGES

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539.13 – ANIMALS AND WILDLIFE
539.14 – PENALTIES
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539.16 – SEVERABILITY

CROSS REFERENCES

Land appropriation for parks - see Ohio R.C. 715.21, 719.01
Parks - see Ohio R.C. 755.01, et.seq.
Power to regulate speed in parks - see Ohio R.C. 4511.07(E)
Recreation Board - see ADM. Ch. 143

539.01 DEFINITIONS

As used in this chapter the following terms as used in the rules and regulations herein shall mean:

- (a) "Commission" means the Canton Board of Park Commissioners, or its designated representative. Additionally, as used herein "designated representative" shall mean the Park Director, Park Assistant Director, or such person as the Commission shall appoint.
- (b) "Dawn" means one half hour after sunrise.
- (c) "Director" means the Director of the Department of Parks & Recreation or the chief executive officer of any successor agency.
- (d) "Dusk" means one half hour before sunset.
- (e) "Parks" means any and all land owned or controlled by the Canton Board of Park Commissioners.
- (f) "Person" includes persons, corporations, and organizations.
- (g) "Public Event" means a group activity including, but not limited to, a performance, meeting, assembly, contest, exhibit, ceremony, festival, parade, athletic competition, reading, or picnic for which specific space is requested to be reserved. It is an activity where the general public is invited, allowed or encouraged to attend. This shall not be defined as a private event, restricted to members of a family, organizations, group, or by invitation only. This definition shall not include casual park use by visitors or tourists.

539.02 GENERAL PROVISIONS

(a) Explosives, firearms and weapons

- (1) No person, except a police officer or peace officer while on duty, shall bring into or have in his or her possession in any park, any firearms, slingshots, firecrackers, missile propelling instruments or explosives, including any substance, compound, or mixture having properties of such a character that alone or in combination with other substances, compounds or mixtures, propel missiles, explode or decompose to produce flames, combustion, noise, or noxious or dangerous odors.
- (2) Nothing in this section shall be construed to prohibit the proper use of cigarette lighters, matches or of charcoal lighter fluid in proper containers in picnic grills where permissible pursuant to the provisions of these ordinances.
- (3) Whoever violates this section is guilty of a minor misdemeanor and is subject to suspension from the park and criminal prosecution.

(b) Fires

- (1) No person shall start a fire in the park except small fires for cooking in park grills or privately owned grills, without the approval of the Commission.
- (2) All persons granted approval from the Commission shall also obtain all necessary approvals and permits from the Canton Fire Department.
- (3) No person shall leave unattended any fire, ember, or burning briquette. Any fire, ember, or burning briquette shall be continuously under the care and direction of a competent adult from the time it is kindled until the time it is extinguished.
- (4) No person shall vacate the immediate vicinity of any fire, ember, or burning briquette without same person who ignited said fire, ember, or burning briquette extinguishing same.
- (5) No person shall dump hot ashes or fire onto the grass, plants, or into bodies of water. Hot ashes shall be dumped in designated receptacles only.
- (6) Whoever violates this section is guilty of a minor misdemeanor and is subject to suspension from the park and criminal prosecution.

(c) Urination and defecation in parks

- (1) No person shall urinate or defecate in any Park, or in or upon any park building, monument or structure, except in a facility which is specifically designed for such purpose.
- (2) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the parks.

(d) Unsanitary use of fountains, pools, and water

- (1) No person shall use, or permit any animal under his or her control to use, any water fountain, drinking fountain, pool, sprinklers, reservoir, lake or any other water

contained in the park for the purpose of washing or cleaning himself or herself, his or her clothing or other personal belongings. This subdivision shall not apply to those areas within the parks which are specifically designated for personal hygiene purposes (i.e., bathroom) provided, however, that no person shall wash his or her clothes or personal belongings in such areas.

(2) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the parks.

(e) Music, sound amplification, and noise

(1) No person shall make, or cause or allow to be made, unreasonable noise in any park so as to cause public inconvenience, annoyance or harm. Unreasonable noise means any excessive or unusually loud sound that disturbs the peace, comfort or repose of a reasonable person of normal sensitivity or injures or endangers the health or safety of a reasonable person of normal sensitivity, or which causes injury to plant or animal life, or damage to property or business within or up to fifty (50) feet outside of the boundaries of park properties.

(2) No person shall play or operate any sound reproduction device including but not limited to musical instruments, radio, stereo, and/or any other sound producing or sound amplifying device, without formal approval from the Canton Park Commission. The Commission, at its discretion may require the acquisition of a Sound Variance from the City of Canton License Bureau.

(3) This section shall not apply to sound reproduction devices listened to solely by headphones or earphones, and inaudible to others, which are permitted in all areas of the parks.

(4) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the park.

(f) Metal detectors

(1) No person shall use a metal detector to find and recover metal objects in the park without the approval of the Commission.

(2) If granted approval, all items found and recovered shall be considered property of the City of Canton.

(3) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the park.

(g) Lost or stolen items

The park is not responsible for any lost, stolen, or damaged personal items or equipment.

(h) Damage or alteration of park property

(1) No person shall injure, deface, paint, write on, disturb, vandalize, remove, or climb upon, unless designed for that purpose, any part of a park or any building,

sign, equipment, or other property found therein.

(2) No person shall damage, injure, disturb, or remove any tree, flower, shrub, grass, rock, mineral, fossil, or any archaeological feature, without approval of the Director.

(3) No person shall plant, or cause to be planted, any tree, shrub, flower, grass, or other plants within the park without the approval of the Director.

(4) No person shall perform or cause to be performed construction, landscaping, or maintenance work of any kind or any work incidental thereto, including storage of materials, in any park without permission from the Director.

(5) No person shall fail to report damage to any recreational or park equipment or property.

(6) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the park and criminal prosecution.

(l) Interfering with park employees

(1) No person shall unreasonably interfere with or interrupt the laborers, officers or persons employed in the parks for the improvement or management thereof.

(2) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the park.

(j) Cleaning personal items

(1) No person shall shake or otherwise clean any carpets or rugs in any park or fasten to any trees or shrubs any clothesline or hang up any clothes to dry or bleach within any park.

(2) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the park.

(k) Camping or encroachment of park land

(1) No person shall be permitted to remain within the park between sunset and sunrise or establish or maintain any camp or other temporary lodging or sleeping place within a park without the approval of the Commission.

(2) No person shall willingly encroach upon a park or leave personal possessions unattended in any park, except in an emergency, without approval of the Commission.

(3) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the park.

(l) Litter, dumping, and trash

(1) All litter, trash, and waste shall be placed in designated trash or recycling

receptacles.

(2) No person shall bring into, leave behind, dump or otherwise deposit on or in any park construction materials, tires, brush, grass clippings, leaves, furniture, building, hazardous, or any other like materials.

(3) No person shall place, or cause to be placed, in any receptacle in the park provided by the Canton Park System for refuse disposal, any items except that which resulted from permitted activities within the park. Large amounts of household or other refuse found in such receptacles will be considered as prima-facie evidence of a violation of this section.

(4) No person shall throw, drop, allow to fall, or discharge into or leave in the waters within any park (including pools and fountains) or any tributary, brook, stream, sewer or drain flowing into said waters, any substance, liquid or solid, which may or will result in the pollution of said waters.

(5) No person shall engage in dumping in any park.

(6) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the park and criminal prosecution.

539.03 HOURS

(a) The parks shall be open to the public from dawn until dusk with the exception of designated park facilities with lighted areas. These hours of operation do not apply where supervised recreational activities approved or administered by the Canton Joint Recreation District and/or the Commission are taking place.

(b) Notwithstanding such hours, the Director of Public Safety and the Director of the Canton Park Commission are granted discretionary powers of authority to close any or all City parks for the purpose of protecting the health, safety and welfare of the residents of the City.

(c) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the parks.

539.04 ALCOHOLIC BEVERAGES

(a) No person shall use, consume, or possess with the intention of using or consuming, alcoholic beverages in the park without formal approval of the Commission. Approval shall be considered on a case by case basis and shall only be granted in conjunction with the confirmation of all other required permits, insurances, and security provisions as required by federal, state, and local liquor laws.

(b) No person shall sell or offer for sale any alcoholic beverage in the park without formal approval of the Commission. Approval shall be considered on a case by case basis and shall only be granted in conjunction with the confirmation of all other required

permits, insurances, and security provisions as required by federal, state, and local liquor laws.

- (c) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the parks.

539.05 CHARGING ADMISSION

- (a) No person having charge or control of or connected with any event or activity played or conducted in, on or upon any park or public playground shall require persons witnessing or participating in such event or activity to pay any charge for admission to such park or playground or to occupy seats in the grandstand or any shelter erected upon such park or playground, without formal approval of the Commission.
- (b) No person having charge or control of or connected with any event or activity played or conducted in, on or upon any park or public playground shall solicit voluntary donations from persons witnessing or participating in such event or activity to pay any charge for admission to such park or playground or to occupy seats in the grandstand or any shelter erected upon such park or playground, without formal approval of the Commission.
- (c) No person having approved use of any park or park facility may transfer such use or sublet to another person.
- (d) Admission Charges at Kurtz Field

The Recreation Board is authorized to establish a reasonable admission charge for athletic events at Kurtz field. All moneys thus collected shall be used for the purpose of paying the cost of operation, maintenance and improvement of Kurtz field and, in the event a surplus is created over and beyond the cost of operation and maintenance of Kurtz field, the Recreation Department is hereby authorized to use such funds for the improving of other athletic fields.

- (e) Admission Charges at Willig Field

The Recreation Board is authorized to establish a reasonable admission charge for athletic events at Willig field. All moneys thus collected shall be used for the purpose of paying the cost of operation, maintenance and improvement of Willig field and, in the event a surplus is created over and beyond the cost of operation and maintenance of Willig field, the Recreation Department is authorized to use such funds for the improving of other athletic fields.

- (f) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the parks.

539.06 VEHICLES

Speed limits

(a) Upon the roads or avenues of any park, vehicles shall be operated at a rate of speed not to exceed twenty miles per hour unless otherwise posted. Any adjustments to posted rates of speed in upon these roads or avenues must be approved by the Canton Park Commission and the Canton City Engineer. This section, however, shall not apply to persons employed by the City who are engaged in the lawful discharge of the duties of their employment as directed.

(b) Impounding of vehicles by park police is authorized:

(1) When any vehicle is left unattended in a park for more than 48 hours without the approval of the Board.

(2) When any vehicle becomes unattended as a result of any unlawful conduct, act, or if the vehicle is reported stolen.

(3) When any vehicle is parked in such a way as to constitute a hazard or obstruction to the normal movement of traffic or so as to create a public safety concern.

(c) Obedience to traffic control devices

No person shall fail to follow the instructions of any traffic control device in the park.

(d) Operation in the park

(1) No person shall park, tow, or drive any vehicle, powered by any means other than manual power, upon any portion of a park except on park roadways or other areas designated for such purposes without the approval of the Board. This section shall not apply to Park System maintenance, City of Canton, Canton Joint Recreation District or emergency vehicles.

(2) No person shall operate any vehicle in any park without having the properly issued, valid operators or commercial driver's license as required by the Ohio Revised Code.

(e) Reckless operation

No person shall operate a vehicle of any kind in a park without due regard for the safety of persons or property.

(f) Trucks and commercial vehicles

(1) No person shall drive, park, or operate a commercial truck, tractor, equipment, or any vehicle used for the transportation of goods and materials, either loaded or unloaded, over any roadway or portion of a park without the approval of the Commission.

(2) This section shall not apply to Park System maintenance, City of Canton, Canton Joint Recreation District, emergency vehicles, or commercial

vehicles making deliveries to the Canton Garden Center or in service to the Commission or Canton Joint Recreation District.

(g) ATV/APV (All-Terrain Vehicle or All-Purpose Vehicle)

These vehicles, which are defined as any open motor vehicle having one seat and three or more wheels fitted with large tires designed chiefly for recreational use off-road, shall not be operated on any park lands unless it is in an area specifically designated for such purpose.

(h) Snowmobiles

No person shall operate a snowmobile or other self-propelled vehicle steered by skis, runners, or caterpillar treads which is designated to travel in snow or on ice-covered surfaces as defined in section 4519.01(A) of the Ohio Revised Code upon any park lands unless it is in an area specifically designated for such purpose.

(l) Motorcycles, mini-bikes, etc.

No person shall operate any motor vehicles, motorcycles, off-road cycle, or mini-bike, within any area of the park district, except such designated roads, driveway, or parking lot and not without proper registration unless it is in an area specifically designated for such purpose.

(j) Parking

No person shall park or store any motor car, motor vehicle, bicycle, wagon or other vehicle within any traveled roadway in the park or at any location where posted signs prohibit parking except in emergencies or upon any sod, turf, gravel, or other surface not specifically designated for parking.

(k) Washing, maintaining, and/or repairing of vehicles

(1) No person shall wash, polish, clean in any manner whatsoever or repair any motor vehicle, except emergency repairs, in any public park or playground.

(2) No person shall operate any traction engine, steam roller or commercial vehicle upon the roads or avenues of any park except such as are used by the City in the repair and maintenance of the parks.

(l) Trail access

(1) No person shall operate any motorized vehicle on any trail.

(2) Persons using an approved ADA mobility device are exempt from this section.

(3) This section shall not apply to Park System maintenance, City of Canton, Canton Joint Recreation District or emergency vehicles.

- (m) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the park and criminal prosecution.

539.07 BICYCLES

- (a) No person shall operate or park a bicycle as to interfere or obstruct vehicular or pedestrian traffic
- (b) No person shall operate a bicycle except on roadways, all-purpose trails, or trails specifically designated for bicycle use.
- (c) No person shall operate a bicycle on the Herbert Fisher Walking Track in Stadium Park.
- (d) No person shall operate a bicycle by riding more than two abreast on any trail.
- (e) No bicyclist shall fail to obey all traffic signs and signals within the park
- (f) No bicyclist shall attach himself/herself to any other vehicle upon a roadway.
- (g) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the parks. ϕ

539.08 RECREATIONAL PROGRAMS AND ACTIVITIES

- (a) No person or entity, with the exception of the Canton Park Commission, shall administer a formal, organized recreational program or activity in any park of the City without the approval of the Canton Joint Recreation District.

- (b) Golf

No person shall practice the game of golf in or upon any public park without permission from the Director. This provision does not apply where supervised recreational activities approved or administered by the Canton Joint Recreation District and/or the Canton Park Commission are held.

- (c) Swimming or wading

Persons may swim, wade, or otherwise enter the waters of the park at their own risk. This provision shall not apply to man-made water features or fountains throughout the park. Swimming, wading or any other entry into these areas with the exception of park personnel is strictly prohibited. Persons violating this section are subject to suspension and will be held fiscally responsible for any damages to these areas caused by their action.

- (d) Fishing

(1) Fishing shall be permitted from locations under the jurisdiction of the Parks. Any person who engages in fishing shall obey all posted guidelines, and comply with all applicable city, state and federal laws and regulations.

(2) The use of lead fishing weights in waters under the jurisdiction of the Parks shall be a violation of these rules.

(3) Failure to remove fishing line fragments and hooks from land and waters under the jurisdiction of the Parks shall be a violation of these rules.

(4) All fish caught in fresh water areas shall be immediately released.

(5) The use of traps to catch fish and/or crustaceans in areas under the jurisdiction of the Department shall be prohibited.

(e) Ice skating

No person shall walk, skate, or otherwise be on the ice of the waters of the park. Except in areas designated for the purpose and subject to the determinations by the Canton Joint Recreation District that the area is ready for such use.

(f) Whoever violates this section is guilty of a minor misdemeanor and is subject to suspension from the parks.

539.09 PUBLIC EVENTS

(a) No person shall hold an event or activity on a park property that is open to, advertised to, involves rides, attractions, or creates any attractive nuisance for the general public without the approval of the Commission.

(b) Requests for such events must be received at least thirty (30) days prior to such event to assure that the Commission can consider the event. Any event requests received within thirty (30) days may be denied by the Director.

(c) Only nonprofit, nonprofit tax exempt, church, or government organizations will be considered by the Commission for approval to reserve a park, or any part of a park, for a public event or fund-raising activity. Approved event requests shall receive formal written approval in letter or permit form.

(d) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the parks. ◊

(e) The Commission reserves the right to require the person or entity responsible for the public event to acquire additional permits from applicable governmental agencies, and event liability insurance with the City of Canton added as an additional insured for any such event.

(f) The Director reserves the right to revoke approval for any public event in the instance that the requesting entity or individual does not comply with the approval provisions set forth by the Commission.

539.10 SHELTER RENTAL

(a) All outdoor picnic shelters may be utilized on a first come – first served basis. Persons obtaining a permit from the Canton Park Commission Offices for shelter use shall take priority over any first come – first served users.

(b) Approved shelter rental requests shall obtain an electronic or hard copy permit issued by the Canton Park Commission Office. These permits shall be in the possession of the person(s) on the shelter site through the duration of the rental.

(c) Rates for all shelter permits shall be established by the Commission.

(d) Rental of a shelter does not grant the permit holder the authority to restrict public access to the surrounding park area or to hold a public event as defined in Section 539.01.

(e) Shelters will be available for rental during normal park hours beginning the Monday of the third full week in April through the second Sunday in October. The Director has the discretion to close or make the shelters available beyond this time frame based on poor or favorable weather conditions.

539.11 SALES AND SPONSORSHIP

(a) For-profit activities are generally prohibited in the park. No person shall sell, or offer to sell, any article, object, privilege, or service without the approval of the Commission.

(b) No person shall place, cause to be placed, or otherwise affix any bill, notice, advertisement, sign, or paper up-on any fence, tree, post or other protective or decorative device within the park without the approval of the Commission.

(c) Small, free standing activity signs may be placed by individual shelter reservations but must be removed at the conclusion of the activity. Failure to do so may result in loss of the reservation deposit and/or loss of future park privileges.

(d) Sponsorship of park activities, programs, or facilities shall be considered on a case by case basis by the Commission.

(e) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the parks.

539.12 PARK POLICE

(a) The Commission is authorized to employ park police, who shall have the authority as park law enforcement officers, to enforce all rules and regulations adopted by the Commission for the operation of the parks within the confines of the City park system.

(b) Any Police Officer may remove or revoke the permission to use any park or part thereof of a person who is violating any provision of the rules and regulations of the Commission, or who by their actions constitutes a hazard, endangers the personal safety of the participants or other park visitors, or endangers the peace and good order in the park.

(c) Any Police Officer may remove and/or hold any property or material placed, remaining, or left abandoned and unattended in any park until the payment of all costs and expenses for violation of any section of the rules and regulations of the Commission is made.

539.13 ANIMALS AND WILDLIFE

(a) Horses

(1) No person shall lead, ride or drive any horse, mule, donkey, cattle, or like animal upon any road, avenue or land of any park, except as provided in Chapter 783 of the Codified Ordinances and without the approval of the Commission unless on areas designated for such purpose.

(2) Whoever violates this section is guilty of a minor misdemeanor, and is subject to suspension from the parks.

(b) Dogs

(1) No person being the owner of, or having charge of any dog, shall allow

it to run loose upon any park property of the City with the exception of park facilities designated specifically for that purpose.

(2) No person being the owner of, or having charge of any dog, shall bring said dog onto any park properties of the City without said dog being controlled at all times on a leash of not more than ten feet in length with the exception of park facilities designated specifically for that purpose.

(3) The running loose of any such dog in, or upon said properties, is prima-facie evidence that it is running loose in violation of this section.

(4) This section shall not apply to police officers of the City who use dogs in the lawful discharge of their duties or to any guide, signal, or other dog individually trained to provide assistance to an individual with a disability

(5) Dogs are not allowed upon the Herbert Fisher Walking Track in Stadium Park or to be within ten (10) feet of the track. Dogs are allowed on the designated limestone countywide trails within the parks.

(6) Dogs are not allowed on the grounds, parking area, or gardens immediately surrounding the Garden Center building in Stadium Park.

(c) Wildlife

(1) No person shall drop, discard, throw, place, or deposit any food stuff for the purpose of feeding the wildlife in any park.

(2) No person shall set loose any animal, wild or domestic, in the park without permission of the Commission.

(3) No person shall hunt, pursue, trap, molest, harm, harass, injure, or disturb wild animals or birds found within the park without the permission of the Commission. Park personnel shall not be subject to this provision.

(d) Whoever violates this section is guilty of a minor misdemeanor and is subject to suspension from the parks.

539.14 PENALTIES

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

539.15 SUSPENSION

(a) Any person who violates any of the rules and regulations contained herein is subject to being suspended from the lands of the parks by the Director.

(b) Any person so suspended will be subject to hearing by the Canton Park Commission

at the next regularly scheduled Commission meeting following the issuance of the suspension order.

(c) Upon hearing said appeal the Commission may either dismiss, amend, or ~~extend~~ the suspension order.

539.16 SEVERABILITY

Each section and part of a section of these rules and regulations is an independent section or part and the holding of any section or part as unconstitutional, invalid, or unenforceable as a result of a ruling of a court of competent jurisdiction or any other cause does not affect the validity of constitutionality of any other section or part.

Section 2. The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Majority Leader, to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 3. This ordinance shall take effect from and after the earliest period allowed by law.

PASSED: *April 4, 2016*

Cham's Morris

President of Council

ATTEST: *April 4, 2016*

APPROVED: *April 4, 2016*

Kellen A. Henry

Clerk of Council

[Signature]

Mayor